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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Application by Verizon for Authorization	)	
Under Section 271 of the Communications	)	
Act to Provide In-Region, InterLATA	)	WC Docket No. 02-67
Services in the State of New Jersey	)	
	)	

COMMENTS OF WORLDCOM, INC. ON THE APPLICATION BY VERIZON FOR AUTHORIZATION TO PROVIDE IN-REGION, INTERLATA SERVICES IN NEW JERSEY

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April 8, 2002

INTRODUCTION AND EXECUTIVE SUMMARY

Verizon attempts to cast its new section 271 application for New Jersey as all about the single issue of excessive "hot cut" non-recurring charges that it claims to have fully resolved. In fact, as Verizon well knows, its pricing problems go far deeper than hot cuts. Because Verizon withdrew its previous application, it has not obtained formal approval from the Commission on any aspect of its case. WorldCom incorporates by reference its previous concerns, but the most serious issues that need attention here are Verizon's excessive switching rates. Verizon can neither "benchmark" its New Jersey switching rates to New York, nor rebut serious Total Element Long Range Incremental Cost ("TELRIC") errors.

Proper analysis reveals that the key elements of switch usage and port are almost 50% higher in New Jersey than New York, and all "non-loop" charges are 20% higher in New Jersey than New York – although WorldCom continues to believe that even if the rates were equal "benchmarking" cannot make legal unbundled network element ("UNE") rates infected with serious TELRIC errors. Verizon, however, relies on obscure explanations and manipulated data in order to make the remarkable claim that its switching rates in New Jersey are actually lower than in New York. Verizon makes this claim by erroneously using different assumptions: Verizon relies on a lower level of usage in New Jersey than in New York, which of course lowers the apparent rate in New Jersey.

By Verizon's logic, even if switching costs are the same in two states, if usage were half in the state being compared to a benchmark, the Bell Operating Company would be entitled to charge

twice the rate – and still claim the rates are the same. That is, of course, absurd. A rate comparison only has meaning if the same usage assumptions are applied to the specific rates and call flow patterns in each state. It is for that reason that WorldCom has relied on a fixed number of originating and terminating minutes of switching even though usage has increased, making that assumption increasingly conservative.

In addition to Verizon's error of using different numbers of minutes in each state for calculating switching charges, Verizon's numbers in both states are far less than actual competitive local exchange carriers ("CLECs") experience. WorldCom's usage experience in New York, where we began local residential service in late 1998, is well above the level of usage assumed in our model and far above Verizon's number. While we do not have local residential experience in New Jersey, Verizon's figures indicate that usage there is only 7% less than in New York, indicating that WorldCom's model is conservative for New Jersey as well. Thus, Verizon cannot justify its switching rates by comparison to New York, for it charges far more in New Jersey even though it admits its costs are slightly less.

Nor can Verizon justify its switching rates on the cost study that was performed in New Jersey, due to several serious TELRIC errors. The most substantial of these is Verizon's failure to account for any switch usage on weekends and holidays when spreading the costs of switching across the level of usage. Verizon claims that only using the minutes from 251 business days is sufficient and it need not make any adjustment for the remaining 114 weekend days and holidays. WorldCom previously suggested that weekend and holiday usage should be counted at least as half of business days, for a total of 308 business day equivalents. Then we discovered that Verizon is

able to measure and calculate weekend and holiday usage in New Jersey for related rate-setting purposes, and Verizon itself concludes that the proper number of business day equivalents is ***

*** – even more than we conservatively assumed. This adjustment alone requires Verizon's switching rate to be reduced by *** ***, more than the 18.5% we had previously calculated. When our other primary concerns of intra-switch double charges and vertical features being charged as part of switch usage rather than port, the total reduction would bring New Jersey into alignment with New York, and go far toward permitting widespread residential competition in the state of New Jersey.

Verizon's New Jersey application should be denied until its above-cost prices are reduced, because its rates do not comply with the requirements of the competitive checklist and its entry into the in-region long-distance market is not in the public interest.

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Massachusetts Final Order	Investigation by the Department on its own motion as to the propriety of the rates and charges set forth in the following tariffs: M.D.T.E. Nos. 14 and 17, filed with the Department on August 27, 1999, to become effective on September 27, 1999, by New England Telephone Telegraph Company d/b/a Bell Atlantic-Massachusetts, Docket No. DTE 98-57, Final Order (Mar. 24, 2000)
Massachusetts Order	Investigation by the Department on its own motion as to the propriety of the rates and charges set forth in the following tariffs: M.D.T.E. Nos. 14 and 17, filed with the Department on August 27, 1999, to become effective on September 27, 1999, by Verizon New England, Inc. d/b/a Verizon-Massachusetts, Docket No. DTE 98-57 – Phase I, Order on Motion on Verizon for Reconsideration and Clarification (Sept. 7, 2000)
Declarations and Affidavits	
Frentrup Decl.	Declaration of Chris Frentrup on Behalf of WorldCom (Tab A hereto).
Huffman Decl.	Declaration of Vijetha Huffman on Behalf of WorldCom (Tab B hereto).
Garzillo/Prosini Supp. Decl.	Supplemental Declaration of Patrick A. Garzillo and Marsha Prosini on behalf of Verizon.

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COMMENTS OF WORLDCOM, INC. ON THE APPLICATION BY VERIZON FOR AUTHORIZATION TO PROVIDE IN-REGION, INTERLATA SERVICES IN NEW JERSEY

Although no aspect of Verizon's previous section 271 application for New Jersey was approved by the Commission, Verizon would like to pretend that this case is all about the single issue of "hot cut" non-recurring charges and sweep everything else under the rug. But Verizon's pricing problems are much more fundamental, for it is clear that New Jersey's switching rates are far higher than New York's. Using standard assumptions and the same number of minutes in both states as the basis for comparison, the New Jersey usage and port rates are almost 50% above New York, while all "non-loop" rates lumped together in New Jersey are 20% above New York levels (which are themselves not perfect). Yet New Jersey switching costs are somewhat lower than in New York.

WorldCom continues to object to the notion that meeting a benchmark can permit serious TELRIC errors to be ignored. However, under the Commission's current framework the New Jersey application – if approved as is – would effectively set a new switching rate

benchmark for the Verizon region that would be significantly above the New York rate. These differences reflect severe TELRIC errors in New Jersey that must be remedied or should result in rejection of this application.

A. Verizon's Switching Rates in New Jersey Greatly Exceed New York

Verizon's most seriously flawed rates are for switching, although WorldCom reincorporates its previous concerns about Verizon's loop rates as well. Verizon cannot obtain approval of its excessive switching rates in New Jersey by comparison to New York, because its New Jersey rates are far higher. Verizon claims otherwise only by contortions of the data – it improperly compares different amounts of usage in the two states and relies on unrealistically low amounts of usage.

The reason for using an average customer for comparing switching rates among states is because the rate structures and call flow methodologies can vary dramatically. Using common assumptions in the states permits analysis of how switching rates compare given the rate and call flow differences. Unfortunately, Verizon fails to do this and instead applies 1898 minutes of use in New York, but only 1767 minutes in New Jersey. Garzillo/Prosini Supp. Decl. ¶ 32. This improperly lowers the apparent rates in New Jersey that Verizon then compares to New York to claim its rates are comparable and can be benchmarked. Verizon makes some attempt to obscure its methodological error by referring to FCC usage assumptions in Att. 8 to Garzillo/Prosini Supp. Decl., but it is clear that Verizon's reliance on the 2770 minutes of usage it attributes to the FCC is only for purposes of obtaining the percentages of originating, terminating and toll minutes.

As explained in the declaration of Dr. Chris Frentrup, in trying to determine whether the effective switching rates are comparable in New Jersey and New York, it is simply improper to use different usage assumptions for the two states. Frentrup Decl. ¶ 18. By Verizon's logic, if usage was much lower in the state being compared to the benchmark state, the BOC's rates would be allowed to be much higher – and the BOC could still claim that the rates are the same. This is nonsense. The point of the inquiry is the rates as applied, not the expenditures of an average customer. Huffman Decl. ¶ 8.

In addition to using common assumptions, different emphases on switch usage and switch port makes it critical to rely on a realistic level of usage in determining how New Jersey switching rates compare to New York rates. New Jersey has a much higher usage rate and lower port rate than New York, so the New Jersey rates are more sensitive to usage levels than New York's. Comparing switch usage plus port is most relevant because these are the key components of switching, and costs are weighted toward one element or the other depending on the cost model used. Huffman Decl. ¶ 9.

Unfortunately, Verizon bases its calculations on levels far lower than typical for CLEC customers, and lower than the numbers the FCC uses. Thus, Verizon uses 1767 and 1898 minutes for New Jersey and New York, respectively, rather than the FCC's 2770 minutes. Garzillo/Prosini Supp. Decl. ¶ 32 & Att. 8. A difference of this magnitude makes a large impact on the analysis.

The assumptions in WorldCom's model are in line with the FCC's. As explained in the Huffman Declaration, we assume each line will generate *** *** minutes of local

originating switch usage each month and a comparable amount of terminating usage. This assumption has been constant in our analysis of UNE rates and profitability of various states for some time, even though it is significantly lower than our actual experience in New York and other states. Huffman Decl. ¶ 3.

WorldCom's data for New York comes from the actual originating minutes in the switch usage files that Verizon sends to us. This usage record is for WorldCom's retail customers in New York, and the data is not impacted by the varying usage of business customers or by wholesale customers that may not have typical levels of usage. Huffman Decl. ¶ 4. By contrast, Verizon acknowledges that it reaches its conclusion of significantly lower levels of usage by including in the average all its "business, public retail, resale and UNE-P lines," along with residential lines. Garzillo/Prosini Supp. Decl. ¶ 32.

While WorldCom does not have local experience in New Jersey, Verizon calculates its numbers in the same manner for both states and its data indicate that usage in New Jersey is 93% of the level in New York. Garzillo/Prosini Supp. Decl. ¶ 32. Applying that number to WorldCom's actual New York experience shows that expected New Jersey usage is above the level assumed in WorldCom's model as well. Huffman Decl. ¶ 5.

The calculations from WorldCom's model reveal that the basic switching rate (switch usage plus port) is $2.50 higher per line per month in New Jersey than New York, or about 50% above the New York rate. This is true even though switching costs in New Jersey are slightly less than in New York, as Verizon acknowledges. Huffman Decl. ¶ 7.

New Jersey switching is still much more expensive than in New York even if all "non-

loop" charges are added into the mix – although adding in separate non-switch elements renders the comparison irrelevant for checklist purposes, since Congress required that each discrete network element had to priced at cost). The New Jersey rate per month for all non-loop charges is $8.29 in New Jersey compared to $6.91 in New York, which is 20% above the New York rate. Huffman Decl. ¶ 9.

WorldCom is not challenging each aspect of Verizon's non-loop rates in New Jersey, but is focused on the switch usage and port charges, so it is improper to lump transport and other charges into the benchmark analysis. The Telecommunications Act's competitive checklist requires that each network element be provided "in accordance with the requirements of sections 251(c)(3) and 252(d)(1)." And section 252 (d)(1) requires that the rate for each network element "shall be based on the cost . . . of providing the . . . network element." The Commission has defined unbundled local switching as a discrete network element; Verizon's switching rate in New Jersey is based on a Verizon cost study that deals discretely with switching costs (and has nothing to do with transport or other costs); and WorldCom has established that because of obvious errors in this cost study New Jersey's switching rate is not "based on the cost of providing" that element. Any claim that errors in the switching rate are compensated for or can be offset by generous transport rates in New York is entirely irrelevant under the statute. The Commission is not at liberty to apply benchmarking analysis in a way that violates the express terms of the Act. Instead it must deal with Verizon's assertion that New Jersey's switching rate is adequately supported by its cost study. And, for the reasons we have shown previously and discuss further below, that is plainly not the case.

In short, Verizon is simply wrong in concluding that its New Jersey switching rates are comparable to New York's and can be benchmarked to New York. New Jersey rates are substantially higher than comparable New York rates and should be reduced to resolve the TELRIC errors discussed in the following section, which would cause them to fall in line with New York's rates.

B. TELRIC Errors with Verizon's Switching Rates

Serious TELRIC errors continue to distort the switching rates that Verizon charges in New Jersey. Verizon has refused to improve its switching rates since its previous application, but new information has been uncovered showing just how unreasonable Verizon's position is on the most significant issue. As discussed below, on the central issue of how many business equivalent days to use in calculating switching rates, Verizon has firmly resisted moving beyond 251 business days. But it turns out that Verizon can and does measure weekend and holiday usage, and Verizon calculates the proper number of business day equivalents as *** ***, well above the conservative 308 days that WorldCom had previously suggested.

The three key TELRIC issues that WorldCom previously raised and reiterates briefly below comprise errors that nearly double the switch usage rates being charged in New Jersey. This is a dramatic overcharge that presents an ongoing barrier to widespread local residential competition in the state, depriving New Jersey consumers of the benefits of competition.

Usage Rates Ignore Almost One-Third of Year. Verizon uses an incorrect methodology for determining the number of switching minutes for setting rates. The issue, as previously discussed in WorldCom's comments, is that Verizon collects all usage-related costs over 251

days of the year, which is the number of weekdays less holidays. As explained in the Frentrup Declaration, the problem with Verizon's approach is that in deriving its estimate of annual minutes it leaves out usage on weekends and holidays, even though Verizon charges CLECs for weekend and holiday usage. All the revenue Verizon collects on weekends and holidays is in excess of the cost of providing the usage-related portion of the switch. Frentrup Decl. ¶ 9.

While the problem has not changed, new information uncovered in Verizon's filing makes clear the extent of the error that infects Verizon's rates. In WorldCom's review of the confidential cost information filed by Verizon, we have discovered data that indicates that Verizon does measure weekend and holiday usage for purpose of setting rates for common transport and tandem switching, and that in New Jersey the level of such usage is significantly more than half the level of business day usage that WorldCom had conservatively assumed previously.1 Verizon's data should result in a reduction in usage of *** ***, rather than the 18.5% that WorldCom had first calculated. Frentrup Decl. ¶¶ 8, 13.

Neither Verizon nor the New Jersey Board of Public Utilities ("BPU") have provided rationales sufficient to justify omitting weekend and holiday usage, as WorldCom has previously explained. The Commission should require Verizon to correct this clear error by reducing Verizon's switch usage rates to reflect usage on all days, or alternatively to offer switch usage at a zero rate on weekends and holidays, before it grants section 271 authority to Verizon. Frentrup Decl. ¶ 13.

1 The minutes carried by Verizon's common transport network must go through one of its switches, so this number of equivalent business days will apply to its switches as well. Frentrup Decl. ¶ 8.

Improper Double Charges on Intra-Switch Calls. Verizon further increases its switching charges to CLECs by imposing its inflated switching rate twice for intra-switch calls, even though an intra-switch call passes through a switch processor only once. The call arrives at the switch from one customer, is processed by the single switch and routed to another customer who is served by that same switch. The call does not pass through the switch processor twice, and thus should not be charged for both an originating and terminating minute as are inter-switch calls. Frentrup Decl. ¶ 15. This double charging for intra-switch calls was explicitly rejected prior to the Commission's section 271 reviews in both New York and Massachusetts.2 It should be rejected for New Jersey as well.

Under the Commission's assumption of 25 percent of local calls being intra-switch, this inflates CLEC switching costs by about 11 percent. However, it is not addressed or justified by the BPU in its order. Frentrup Decl. ¶¶ 4, 14.

Vertical Features Improperly Increase Usage Rates. Despite the fact that the cost of vertical features does not vary by usage, Verizon recovers those costs in the per minute switch usage rates, rather than in the fixed port charge, which is the logical place for the costs to be recovered. This increases the cost of the usage portion of the switch, which is divided by the understated peak minutes, further inflating the switch usage rate. Frentrup Decl. ¶ 16.

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2 New York previously rejected Verizon tariff language applying two switching charges for an intra-switch call. Order Approving Tariff and Directing Revisions, Cases 95-C-0657, et al., June 12, 1998, at 13. Verizon's recent New York compliance tariff sought to reverse the Commission's prior decision, but New York PSC staff suggested that Verizon withdraw this noncompliant language, and on February 28, 2002, Verizon again submitted a compliance filing, stating in its cover letter that the "[unbundled local switching terminating rate element] will not apply to intra-switch calls." The Massachusetts commission also rejected Verizon's attempt to assess an unbundled local switching charge twice for an intra-office call. Order, D.T.E. 98-57 (Mar. 24, 2000), at 219. In September

The BPU declined to require any change in this approach, explaining that placing more costs in the usage sensitive rates would encourage carriers "to evaluate the feasibility of deploying their own switches to eliminate the uncertainty that comes with purchasing switching from Verizon NJ." BPU Decision & Order at 125. But TELRIC principles require rates to be set to recover costs, not to carry out other policy judgments. This is a clear violation of TELRIC principles that the Commission should not permit. Frentrup Decl. ¶¶ 5, 16.

Impact on Switching Rates. Together these problems have a huge impact on switching rates, and seriously impede local residential competition. Resolving these three errors would cut the switch usage rates paid by CLECs by about 48 percent. While the port rate would increase slightly, this would bring the combined New Jersey port and usage charges in line with New York levels. Frentrup Decl. ¶ 17. The Commission should encourage Verizon to improve its switching rates and reject Verizon's section 271 application until it has brought its UNE rates to cost-based levels.

CONCLUSION

Verizon's New Jersey application should be denied.

Respectfully submitted,

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2000 the Massachusetts commission rejected Verizon's motion for reconsideration. See Order, D.T.E. 98-57 (Phase I) (September 7, 2000), at 45-46.

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April 8, 2002

CERTIFICATE OF SERVICE

I, Lonzena Rogers, do hereby certify, that on this eighth day of April, 2002, that I have caused a true and correct copy of WorldCom, Inc.'s Comments in the matter of WC Docket No. 02-67 to be delivered by United States Postal Service first class mail, hand delivery or e-mail to the following:

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